

UNITED STATES BANKRUPTCY COURT

District of Arizona



Consumer Debtor Instructions for Completing the Petition, Schedules and Statement of Affairs

January 2005

IMPORTANT WARNINGS

Neither the Bankruptcy Court nor the Clerk's office can give you legal advice. This pamphlet is not intended to give you legal advice, and is not a substitute for the legal advice specific to your situation that you should obtain from a qualified attorney. To find an attorney who has been certified as a specialist in bankruptcy, you may go to the State Bar of Arizona website at www.azbar.org, click on "Legal Resources" in the top menu bar, then click on "Find a Certified Specialist," and then click on "Bankruptcy."

This pamphlet addresses only the filing of bankruptcy cases by individuals and married couples. It is not intended to be used for the filing of bankruptcy cases by corporations, partnerships and LLCs. If a corporation, partnership or LLC is considering filing bankruptcy, it will absolutely need a lawyer because the law of this Circuit is that such organizations can be represented in court only by a lawyer, not by a nonlawyer individual such as the president of the corporation. Because this pamphlet is intended only for individual filers, the only kind of business that could be included is a sole proprietorship or a "dba" of an individual.

Due to the passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, the forms currently in use and these instructions will become seriously outdated and incomplete for cases filed on or after October 17, 2005.

INTRODUCTION

For either a Chapter 7 case or a Chapter 13 case, you (the “Debtor”) must file: (1) the Petition, which commences the case and identifies which Chapter it is filed under, (2) Schedules A through J, which identify your assets and your debts, and income and expenses (3) a Statement of Affairs, which answers questions about your income, expenses, finances and transactions, (4) a Statement of Intention, which states whether you intend to keep or return assets that secure your secured debts, and (5) a verified statement providing your social security number. This pamphlet provides some basic information about how to fill out these forms. In a Chapter 13 case you must also file a Plan. This pamphlet does not address how to create and file such a plan.

It is important that these forms be filled out completely and accurately. If not, your discharge may be denied or substantially delayed. These instructions cannot answer all questions that may arise in filling out these forms. **If you have such additional questions, you should consult an attorney. Neither the Court nor any document preparer or paralegal can answer any legal questions that you may have about how to fill out these forms.**

I. THE PETITION

First Page

Left Column

1. **Name of Debtor.** If you are an individual debtor filing for bankruptcy, insert your last, first and middle name. If you are a married couple filing a joint case, insert one spouse's last, first and middle name here, and insert the other's name in the right column.
2. **All Other Names used by the Debtor in the last 6 years.** Insert any aliases used within the last six years, including your married, maiden and/or trade names or dba's. Insert "N/A" if not applicable.
3. **Last four digits of Social Security No.** If you are an individual debtor, insert the last four digits of your social security number. If you are a business debtor, insert your complete EIN and/or Tax I.D. No. If you have more than one identification number, insert all.
4. **Street Address.** Insert your street address, city, state and zip code.
5. **County of Residence or of the Principal Place of Business.** If you are an individual debtor, insert the county in which your physical residence is located.
6. **Mailing Address.** Insert your mailing address if different from your street address stated above. Insert "N/A" if not applicable.
7. **Location of Principal Assets of Business Debtor.** In the unlikely event that you are a business debtor (an individual doing business under a "dba") and your principal assets are located in a place different from your street address indicated in No. 4, insert the street address, city, state and zip code of where your principal assets are located.

Right Column

8. **Name of Joint Debtor.** If Debtor's spouse is also filing for bankruptcy, insert spouse's last, first and middle name. If Debtor's spouse is not filing for bankruptcy, information regarding the Joint Debtor may be omitted from this right column.
9. **All Other Names used by the Joint Debtor.** Insert any aliases used by Joint Debtor within the last six years, including Joint Debtor's married, maiden and trade names. If not applicable, insert "N/A."
10. **Last four digits of Soc. Sec. No.** Insert the last four digits of the Joint Debtor's social security number.

11. **Street Address of Joint Debtor.** Insert Joint Debtor's street address, city, state and zip code.
12. **County of Residence or of the Principal Place of Business.** Insert the county in which the Joint Debtor's physical residence is located.
13. **Mailing address of Joint Debtor.** Insert your mailing address if different from your street address stated in No. 11 above. Otherwise, insert "Not Applicable."

| |
|--|
| Information Regarding the Debtor (Check the Applicable Boxes) |
|--|

14. **Venue.** Check all boxes applicable to you.
- Check the first box if you have been domiciled or have had a residence, principal place of business, or principal assets in this District for the 180 days (six months) immediately preceding the filing of this bankruptcy case *or* for a longer part of such 180 days than in any other District. Check this box if you have lived in Arizona for more than 90 days before the bankruptcy filing.
 - Check the second box if there is a bankruptcy case concerning your corporation, LLC or partnership pending in this District.

Left Column

15. **Type of Debtor.** Check all boxes that apply. Because this pamphlet is intended only for individual debtors, you should probably only check the box "individual."
16. **Nature of Debts.** Check one box.
- Check "Consumer/Non-Business" if the debts included in your bankruptcy were incurred by you as an individual primarily for a personal, family, or household purpose.
 - Check "Business" if the debts included in your bankruptcy were incurred in connection with your trade or business.
17. **Chapter 11 Small Business.** Because this pamphlet is intended only for individuals filing a Chapter 7 or Chapter 13 case, this question does not apply so leave both boxes blank.

Right Column

18. **Chapter or Section of Bankruptcy Code Under Which the Petition is Filed.** This is probably the most important decision you have to make in filling out the petition, because this is where you indicate whether you are filing a Chapter 7 case or a Chapter 13 case. Check the appropriate box. If you are unsure about which chapter to select, consult a lawyer or review the “Choosing Your Chapter” pamphlet for information helpful to determining what type of filing is most appropriate for you.
19. **Filing Fee.** Check the first box if the fee for filing your bankruptcy is attached. Check the second box if the filing fee is being paid in installments. In order to be eligible for paying the filing fee in installments, you must be an individual debtor (not a corporation, partnership or LLC) and attach a signed application for the court’s consideration certifying that you are unable to pay the fee except in installments. You may not pay the filing fee in installments if you have paid for the services of an attorney, document preparer or paralegal. Even if you want to pay your filing fee in installments, and immediate payment of \$50 is required.
20. **Statistical/Administrative Information.**
- Check the first box if you estimate that there will be assets available for distribution to unsecured creditors, without including exempt assets.
 - Check the second box if you estimate that, after any exempt property is excluded and administrative expenses are paid, there will be no funds available for distribution to unsecured creditors.
21. **Estimated Number of Creditors.** Check the appropriate box reflecting number of creditors listed in your bankruptcy.
22. **Estimated Assets.** Check the appropriate box reflecting the estimated value of your assets, as appropriate. Do not reduce the value of your assets based on any liens or encumbrances against these assets.
23. **Estimated Debts.** Check the appropriate box reflecting the estimated amount of your debts included in your bankruptcy, including any disputed or contingent debts. Check the Glossary of Terms in the “Choosing Your Chapter” pamphlet for the definitions of contingent debts.

Second Page

Prior Bankruptcy Case Filed Within Last 6 Years

If you have filed bankruptcy within the last six years, insert the location of the court

where the bankruptcy case was filed, the case number and the date the case was filed.

Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor

If your spouse, partner or affiliate has filed a bankruptcy case that is currently pending, identify the name of that debtor, case number, date the case was filed, the district in which the case was filed, that debtor's relationship to you, and the name of the judge presiding over that debtor's pending bankruptcy case.

Signatures

Signature(s) of Debtor(s) (Individual/Joint)

Debtor and Joint Debtor, if any, must sign the petition. Insert your telephone number and the date you signed the petition in the space provided.

Exhibit A

Exhibit A is not required for individual debtors.

Exhibit B

Exhibit B is not required if you are not represented by counsel.

Exhibit C

Check "yes" if debtor owns or has possession of any property that poses a threat of imminent and identifiable harm to public health or safety. Exhibit C must be attached as part of the petition. Check "no" if inapplicable.

Signature of Non-Attorney Petition Preparer

If you received the assistance of a bankruptcy petition preparer, insert the preparer's name, social security number and address. The preparer must sign and date the petition in the space provided.

II. THE SCHEDULES

Summary of Schedules

Although the form entitled “Summary of Schedules” is usually found at the front of any packet of schedule forms that you may have, do not complete it now. Instead, proceed to complete all of the other Schedules first, and then come back and list the totals from those Schedules in the appropriate boxes on the Summary of Schedules.

Schedule A – Real Property

There are two kinds of property – “real property,” which is real estate (like your home, condo, or piece of land) and “personal property,” which is everything else, such as cash, your car, clothes, books, furniture, amounts owed to you by others, stocks, insurance policies, lawsuits in which you are the plaintiff, tax refunds due you, etc. Schedule A deals with real property and Schedule B deals with personal property. In both cases, **list all of your community property even if your spouse did not file a joint case with you.**

Column 1 – Description and Location of Property

List the street addresses of all real property you own or have an interest in. If you don’t have any interest in any real property write “None” in this column, put \$0 in the space marked “Total” down at the bottom of the page, report \$0 in the “Real Property” box on the Summary of Schedules and go to Schedule B. If you own real property but it does not have a street address, provide a legal description such as a lot number, subdivision name, and book and page where the subdivision plat is recorded, and identification of the county in which the land is located.

Column 2 – Nature of Debtor’s Interest in Property

Describe your interest in the property. Are you the owner? If so, insert “owner.” If you are a co-owner of the property with someone else (other than a spouse who is a joint debtor in this case), insert “co-owner and add the percentage of your ownership, such as “50% co-owner.” If you know the nature of your co-ownership interest, insert that, such as “50% tenant in common.” There are many other possible interests in land, such as contracts to purchase, options, life estates and remainder interests, but these are relatively rare. You may also have a deed of trust or other kind of lien against someone else’s real property if they owe you a debt secured by such property. If you are unsure, consult an attorney.

Column 3 – Husband, Wife, Joint or Community

Married debtors should indicate whether the property is jointly owned or separately owned. If separately owned, indicate which Debtor owns it: insert “H” if it is separately owned by the husband, or insert “W” if it is separately owned by the wife. In Arizona, a married couple may also jointly own their real property as community property, as community property with right of

survivorship, as joint tenants with right of survivorship, or as tenants in common. Insert “C” if it is community property, and insert “J” if it is owned as joint tenants or tenants in common. Consult an attorney if you are unsure how title to your property is held.

Column 4 – Current Market Value of Debtor’s Interest in Property, Without Deducting Any Secured Claim or Exemption

List the value of your interest in the property without deducting the amount of any secured claim that may exist. In other words list how much you believe the property could be sold for after appropriate marketing efforts and a reasonable time on the market.

If there is real property owned in common with someone who is not your spouse that is a joint debtor in this bankruptcy case, list only the value of your percentage interest. If unsure, consult an attorney.

Column 5 – Amount of Secured Claim

List any company, person or lender who has a mortgage, deed of trust, judgment lien or other secured interest in any of the listed real property and state the amount of the debt. For example, if you took out a mortgage on the property, identify the lender you currently owe and the current amount owed. If no one holds a secured interest in the real property, insert “None.”

Schedule B – Personal Property

Schedule B is used for reporting your interests in personal property. Everything that you own that is not real property is considered personal property and must be listed somewhere on this Schedule.

For each type of property, you must either check the box marked “NONE” in column two if you do not own any property of that kind, or else identify the property and give its location in column 3. If the property is not in your possession at your home address, give the name and address of the person who has it. In column 4, if the case is a joint filing by a husband and wife, insert an “H” if the property is the husband’s separate property, insert a “W” if the property is the wife’s separate property, insert a “C” if the property is community property, or insert a “J” if the property is owned in joint tenancy or as tenants in common. Then in column 4 give the market value of the property (without deducting any amount that may be exempt or any debt that is secured by the property). Market value means what you could sell it for (not what you paid for it), but even if the property cannot be sold you should list what you think it is worth.

Column 1 – Types of Property

1. Cash on hand is limited to the money in your physical possession when the bankruptcy case is filed. List all cash you have in your home, your home safe, car, pocket, wallet, etc. (but not in the bank).

2. “Checking, savings or other . . .” includes all financial accounts owned by you. This includes all money held in checking accounts at banks, savings and loans and credit unions, savings accounts, CD’s, money market funds, etc. Make sure you identify each account by account number and provide the name and address of the institution that holds the funds. If unsure, consult an attorney.

3. “Security deposits . . .” includes all security deposits you have given to a landlord, utility company (electric, gas, water, etc.), or telephone company.

4-8. Categories 4-8 are self-explanatory. Give a brief description of the types of items owned. You do not need to list every single item if a general description of the type of property would give creditors an accurate idea of what you own. Take the market value of each category and list accordingly. Anything of unusual value should be mentioned separately.

9. “Interest in insurance policies...” For example, list whether you own any life insurance policy (whole life, term, etc) and give its cash surrender value, if any. Liability policies, such as car insurance and homeowners’ insurance, generally have no cash surrender value and need not be listed.

10. Annuities. An “annuity” is a regular payment of money, either for life or for a number of years, usually payable by an insurance company or other financial institution. People sometimes have these because they purchased them for financial planning purposes, because they won a lottery and took the proceeds over a period of years, or because they obtained one in settlement of a personal injury claim. List the name of the company that owes you the annuity payments and the total value of the annuity (which may be hard to calculate and you may need expert advice to do so). Consult a lawyer or accountant if you need assistance in calculating the present value of the annuity.

11. Interests in pension and profit sharing plans. Most pension plans that meet certain tax requirements are considered not to be property of the bankruptcy estate. You should identify any IRA, Keogh, 401(k) or other type of pension or profit sharing plan and, if you believe it is exempt from taxation until you make withdrawals, identify it as “Not Property of the Estate.” You may need legal advice to make this determination.

12-14. List here all stocks and bonds that you own, all interests in partnerships, and all businesses that you own, or have an ownership interest in. Also list all negotiable and nonnegotiable instruments that you own. Examples include promissory notes, debentures, cashiers’ checks, personal checks, and money orders payable to you. If unsure, consult an attorney.

15-17. These categories include all other debts that are owed to you. Debts to be included in category 15 include those resulting from your sale of property or something you are owed for services performed. Category 16 relates to money owed to you as a result of a divorce,

legal separation, child support obligation or property settlement with an ex-spouse. Item 17 requests you to list all money owed to you not included in Items 15 and 16, such as any expected federal/state tax refunds. In one of these three categories you must list any and all debts owed to you, and all claims that you have against anyone, for which the amount due is known or can be calculated (*i.e.*, “liquidated”).

18-19. These categories include interests in personal property that usually arise from a relative’s death, will or trust. Consult an attorney, if not sure.

20. Include here all other contingent and unliquidated debts that may be owed to you, such as someone’s potential liability to you for a car accident or malpractice. Check the Glossary of Terms in the “Choosing Your Chapter” pamphlet for the meaning of “contingent” debts and “unliquidated” debts. Even if you are not sure you have a right to be paid, if you think you have any kind of claim against anyone you should list it here if you have not already included it elsewhere. You may later be denied the right to assert such a claim if you fail to list it here or somewhere else on these Schedules.

21-22. Intellectual property includes such items as patents, copyrights, trademarks and trade secrets. Amounts due to you from royalties and licensing agreements should also be included. Be specific.

23-25. List all vehicles you own, giving the maker, model, and year of car(s), other vehicles and accessories, and stating product names when possible.

26-28. If the debtor is a business, or owns a business as a sole proprietor, you must list all of the business assets. In some of these categories, a more general description will be enough, or you can attach a sheet with a list of your inventory.

29-32. Include animals(including domestic pets), livestock, horses, crops, farming equipment and farm supplies. Items of particular value or unique in some other way should be listed separately.

33. Any other personal property not listed above should be listed in this category.

Schedule C – Property Claimed as Exempt

1. Individual debtors and joint debtors (married couples) are entitled to claim certain property as exempt from the bankruptcy estate. Generally, if property is claimed as exempt, and there are no timely objections, you may retain the property. However, you would still have to pay the debt owed to any secured creditor to whom you granted a mortgage, deed of trust or security interest. This does not include judgment lien creditors, whose judgment liens may be avoided under Bankruptcy Code § 522(f).

Under federal law, Arizona is an “opt out” state. This means that debtors who file in

Arizona are generally limited to those exemptions provided under Arizona law or other applicable non-bankruptcy law, and may not claim those exemptions provided for in the Bankruptcy Code. Even in an “opt out” state, it is important to check both federal and state laws to see what exemptions are available.

Because Arizona is an “opt out state” you should place an “X” in the second box at the top of the schedule next to “11 U.S.C. § 522(b)(2).”

2. Exemptions are ***not*** available to a corporation, partnership, trust or any entity that is not an individual or a married couple.

Column 1 – Description of Property

Only certain kinds of property are exempt, and almost all exemptions have dollar limits. It is important to know what can be claimed as exempt and the appropriate dollar limits when preparing the schedule. Please refer to the pamphlet on Arizona Exemptions for this information. There also is a substantial amount of case law on the subject of exemptions, which in any particular state or district may restrict or liberalize certain exemptions, especially dealing with exempt property acquired shortly before filing the bankruptcy case. You should investigate the law governing exempt property in the state of residence and seek advice from a lawyer if valuable property is at stake. The location of property should not be included in this form.

Column 2 – Specify Law Providing Each Exemption

You must specify the provision of the law providing each exemption in the space provided. These can be found in the Arizona Exemptions pamphlet.

Column 3 – Value of Claimed Exemption

In Arizona, the value of the claimed exemption is not always the same as the current market value of the property. The value of the exemption is the fair market value of the property minus any debt that the property secures, *i.e.*, your “equity” in the property. For example, if your house is worth \$200,000 and you currently owe a total of \$150,000 in mortgages against it, then your equity is \$50,000 and that is the value of the claimed exemption. You must state the dollar value of the claimed exemption in the space provided, and it may not exceed the maximum exempt amount for that kind of property. Consult the Arizona Exemptions pamphlet for these amounts.

Column 4 – Current Market Value of Property Without Deducting Exemption

State the current market value of the property in the space marked for that purpose. This is the amount the property could be sold for after a reasonable period of marketing. You should not subtract the value of the claimed exemption nor the amount of any debt secured by the property.

Schedule D – Creditors Holding Secured Claims

The purpose of this schedule is to identify those creditors holding secured claims against your property and the amount owed to them. A secured claim is any debt that you owe for which the creditor could take your property if you fail to pay, such as a home mortgage or a car loan. The claims listed on Schedule D should include all claims secured by any type of interest in either personal property or real property, including judgment and statutory liens, garnishments, mortgages, deeds of trust, and other security interests. Although the debtor should provide the most accurate information possible, the amounts of the claims sometimes cannot be stated with exact precision. It is crucial, however, that the names and addresses of all creditors be identified to enable the trustee and creditors to get a reasonably accurate account of the holders of secured claims. Do not assume that the correct address is where you mail your payments. Carefully review your coupon, bill or invoice to see if there is another address for the lender that should also be included.

A claim is secured if the creditor has a lien, mortgage, deed or trust or security interest against any of your property (called the “collateral”) that gives the creditor the right to seize that particular property if you miss any payments or otherwise fail to abide by your agreement with the creditor (called a “default”). Examples of secured claims are a mortgage or deed of trust on real property, and a security interest in a car, boat, television set, or other item of personal property. A secured claim against some property may also have been obtained by a creditor obtaining a judgment against the debtor and then either recording the judgment with the County Recorder, which makes it a lien against any real property the debtor owns in that county, or by having the county sheriff levy against (which usually means to seize) some personal property. The fact that someone else has guaranteed your debt does not, by itself, mean that debt is a secured debt.

A debtor should list on this form all claims that are either partially or fully secured claims.

Column 1 – Creditor’s Name, Mailing Address Including Zip Code, and Account Number

You must insert the creditor's name, mailing address, zip code, and last four digits of the account number in the spaces provided, and use continuation sheets, if necessary. If you have no creditors holding secured claims, the debtor should check the box provided on Schedule D and go on to the next schedule.

Column 2 – Codebtor

Place an "X" in the column labeled “Codebtor” if someone else is also liable for the debt, except for a spouse. For example, if your father co-signed on your car loan, he is a “codebtor.”

Column 3 – Husband, Wife, Joint, or Community

When a married couple has filed a joint petition, they should designate who owes each debt in the column labeled “Husband, Wife, Joint, or Community.” Place an “H” here if the debt is the husband’s only. Place a “W” here if it is the wife’s only. Place a “J” here if it is a joint debt because both spouses agreed to pay it. Place a “C” here if it is a community debt. Leave this column blank if you are not married.

Column 4 – Date Claim Was Incurred, Nature of Lien, and Description and Market Value of Property Subject to Lien

Indicate in the space provided the date the debt was incurred; the nature of the lien, security interest or mortgage; the description of the property securing the debt; and the market value of the property securing the debt. State the market value in dollars. This is the amount the property could be sold for. Do not subtract from this amount the amount of the debt or the amount of any exemption.

Columns 5–7 – Contingent, Unliquidated, Disputed

If the claim is contingent, unliquidated, or disputed, debtors should place an “X” in one or more of the appropriate columns. Otherwise, leave these columns blank. A general definition of the terms “contingent” and “unliquidated” is provided in the Glossary of Terms found in the back of the Choosing Your Chapter pamphlet.

Column 8 – Amount of Claim Without Deducting Value of Collateral

Insert the total amount of this debt in the column entitled “Amount of Claim Without Deducting . . .” This should include both the secured and unsecured portions of this claim. Generally, this is the total amount you owe this creditor.

Column 9 – Unsecured Portion, If Any

Put a number in the column entitled “Unsecured Portion” only if you believe that the value of the property securing the claim is less than the total amount of the claim. If it is, then subtract the value of the collateral from the total amount of the claim and list here the remaining difference, which is unsecured for purposes of bankruptcy. This unsecured portion need not be listed again in Schedule F.

Totals

Debtors should place the subtotal for the claims listed on each page — without deducting the value of the collateral — in the space provided at the bottom of each continuation sheet. Debtors should place the total of all secured claims on the last page only, and then insert that total on the Summary of Schedules in the column marked “Liabilities.”

Schedule E – Creditors Holding Priority Unsecured Claims

Schedule E is where you list special kinds of unsecured creditors. Like the creditors in Schedule F, these are unsecured claims, which means that these creditors cannot seize any of your property simply because you miss a payment – there is no collateral for these debts. The difference from the claims listed in Schedule F is that Schedule E is only for claims that have a special status under the Bankruptcy Code, called a “priority.” The kinds of debts that belong in Schedule E are taxes, alimony, maintenance, child support, wages, salaries or commissions you owe someone else, and, if you are a landlord, your tenants’ security deposits. There are some other kinds of priority debts, but they rarely occur in consumer Chapter 7 and Chapter 13 cases.

Column 1 – Creditor’s Name, Mailing Address Including Zip Code, and Account Number.

Insert the creditor’s name, address and last four digits of the account number.

Column 2 – Codebtor

Place an “X” in the column labeled “Codebtor” if someone else is also liable for the debt, except for a spouse. There are almost never codebtors for the priority debts that belong on this schedule.

Column 3 – Husband, Wife, Joint, or Community

When a married couple has filed a joint petition, they should designate who owes each debt in this column. Place an “H” here if the debt is the husband’s only; place a “W” here if it is the wife’s only; place a “J” here if it is a joint debt because both spouses agreed to pay it; or place a “C” here if it is a community debt. Leave this column blank if you are not married.

Column 4 – Date Claim Was Incurred and Consideration for Claim

Insert the date you first became liable to pay this debt, and insert what the debt was for. For example, if you owe money for taxes, insert the date the taxes were due and the nature of the tax, such as “April 15, 2004 income taxes.” If you owe child support, insert the months and years for which you owe it and “child support.”

Columns 5–7 – Contingent, Unliquidated, Disputed

If the claim is contingent, unliquidated, or disputed, debtors should place an “X” in one or more of the appropriate columns. Otherwise, leave these columns blank. A general definition of the terms “contingent” and “unliquidated” is provided in the Glossary of Terms found in the back of the Choosing Your Chapter pamphlet. Priority debts are almost never contingent or unliquidated, but they may be disputed if you dispute that you owe the debt or dispute the amount the creditor claims that you owe.

Column 8 – Amount of Claim

Insert the amount that the creditor claims that you owe in the “Amount of Claim” column. Use the total amount the creditor claims that you owe, even if you dispute that amount.

Column 9 – Amount Entitled to Priority

You may need to consult an attorney to determine the “Amount Entitled to Priority.” For some priority claims such as spousal maintenance, alimony and child support, the entire amount that you owe will all be entitled to priority, so simply list the same amount you listed in the previous column. Some priority claims are subject to a maximum; for example, the priority portion of wages owed is currently limited to \$4,650 per individual, and they must have been earned within 90 days before the filing of the bankruptcy. In that case, insert the amount of the debt if it is less than the maximum or insert the statutory maximum amount if the debt exceeds that amount. Some creditors are entitled to priority for portions of their claims and not for others. The most typical example of this is tax claims, which are generally a priority if they were for a tax year for which the return was due less than three years before you file the bankruptcy case (which could include taxes due four years before the case is filed), but are not entitled to priority if they are older than that.

Schedule F – Creditors Holding Unsecured Nonpriority Claims

Schedule F is where you list all other unsecured debts that do not have a special status or priority. Unsecured debts are those debts for which the creditor cannot seize any of your property because you fail to pay. Common examples usually include credit card debts, doctor’s bills, utility bills and money you borrowed from a friend or relative. If none of your property is especially liable for a debt and if it does not have a special priority (such as taxes, alimony, spousal maintenance or child support), list it here.

Column 1 – Creditor’s Name, Mailing Address Including Zip Code, and Account Number

Insert the creditor’s name, address and last four digits of the account number in the first column.

Column 2 – Codebtor

Place an “X” in the column labeled “Codebtor” if someone else is also liable for the debt, except for a spouse. For example, if your father co-signed on your credit card account he is a “codebtor” and that should be indicated here.

Column 3 – Husband, Wife, Joint, or Community

When a married couple has filed a joint petition, they should designate who owes each

debt in the column labeled “Husband, Wife, Joint, or Community.” Place an “H” here if the debt is the husband’s only; place a “W” here if it is the wife’s only; place a “J” here if it is a joint debt because both spouses agreed to pay it; or place a “C” here if it is a community debt. Leave this column blank if you are not married.

Column 4 – Date Claim Was Incurred and Consideration for Claim. If Claim is Subject to Setoff, So State.

Insert the date you first became liable to pay this debt, and insert what the debt was for. For example, if you owe money for a credit card, insert the date for the earliest time this credit card was not paid in full (not just the minimum payment) and identify it as for a credit card, such as “April 2003 credit card.” If you owe money for a doctor’s visit, insert the date of the visit and “medical bill.” The dates you insert should be the dates when you obtained whatever you got on account of this debt, not the later date when you were billed for it. Indicate whether you believe the debt is subject to setoff because the creditor also owes you money. A definition of “setoff” may be found below, in Part III, paragraph 13.

Columns 5–7 – Contingent, Unliquidated, Disputed

If the claim is contingent, unliquidated, or disputed, debtors should place an “X” in one or more of the appropriate columns. Otherwise, leave these columns blank. A general definition of the terms “contingent, unliquidated, or disputed” is provided in the Glossary of Terms found in the back of the Choosing Your Chapter pamphlet. The only kind of “contingent” debts likely to be listed here are if you guaranteed someone else’s debt and they have not defaulted. The most common “unliquidated” debts are those for which a trial is necessary before the amount of the debt can be known, such as your liability for a personal injury caused by a traffic accident. Mark the column “Disputed” if you dispute that you owe the debt or dispute the amount the creditor claims that you owe.

Column 6 – Amount of Claim

Insert the amount that the creditor claims that you owe in the “Amount of Claim” column. Use the total amount the creditor claims that you owe, even if you dispute that amount.

Schedule G – Executory Contracts and Unexpired Leases

This is where you list all contracts in which **both** you and the other party still owe performance to each other. The most common example in consumer cases is a lease, either of real property such as an apartment, or of personal property such as a car.

If you have completed your performance but the other party has not, it is not an executory contract and should not be listed here. Instead, the performance that the other party owes you is an asset of yours that should be listed on Schedule B Personal Property, probably in paragraphs 15, 16 or 17.

If the other party has completed performance but you have not, it is also not an executory contract and should not be listed here. Instead, it is a debt that you owe that should probably be listed either in Schedule D Secured Debts or Schedule F Unsecured Debts. For example, if you bought some property on an installment contract, and you have received the property but have not fully paid for it, it is a secured or unsecured debt rather than an executory contract.

But if both of you still owe performance to each other, the contract should be listed here. *If you are in doubt whether a contract you are a party to is an executory contract, please consult a lawyer.*

Check the box if you have no executory contracts or leases.

First Column

For each executory contract or lease to which you are a party, list the names and addresses of every other party to the contract or lease. For example, this is where you list your landlord's name and address.

Second Column

Describe the nature of the contract and your interest in it. For example, describe it as an apartment lease and describe your interest as landlord or as tenant.

Schedule H – Codebtors

This is where you list anyone else who is also liable for any of your debts. If you are married and filing a joint bankruptcy case with your husband or wife, do *not* list your spouse. But if a friend or relative co-signed a debt with you, that person is a codebtor who should be listed here. For example, if you have had someone else guarantee an auto loan or co-sign the mortgage on your house, this person becomes a codebtor. If you guaranteed the debt of someone else, or of a corporation or partnership, that person or entity is liable along with you for the debt you guaranteed and should be listed here as a codebtor. If your husband or wife has *not* filed joint bankruptcy with you, but is also liable on some of your debts (as is usually the case), then your spouse is also a codebtor who should be listed here. If you owe community debts from a previous marriage and your ex-spouse is also still liable for those same debts, list your ex-spouse as a codebtor.

If you have no codebtors, you should check the box provided and proceed to the next schedule.

Column 1

If you have codebtors, list their names and addresses here.

Column 2

For each codebtor, list the name and address of the creditor who is owed the debt. All of these creditors and their claims should also be listed on either Schedule D, E or F.

Schedule I – Current Income of Individual Debtor(s)

Here is where you list your total current monthly income. If you are married, this form must also report your spouse's income, **even if your spouse has not filed a joint case with you.**

You will need a pay stub, and perhaps pay stubs for a few months, in order to complete this form. You will also need them for your spouse. Keep those pay stubs, because you will probably have to show them to your Trustee at your first meeting of creditors.

- 1) Insert your marital status in the first box.
- 2) List all of your dependents by relationship (no need for names) and their ages. For example, "Son, age 12."
- 3) List your occupation, the name of your employer, how long you have been employed at that job, and your employer's address. Then do the same for your spouse, if you are married.
- 4) Estimate your average current gross monthly income. This should include all income earned from your personal services whether it is paid as an hourly wage, as a salary, or as commissions. This should be the gross total, before any deductions such as for withholding taxes. Then do the same for your spouse.
- 5) If you regularly or even occasionally earn overtime, estimate the gross amount on a monthly basis. Then do the same for your spouse.
- 6) SUBTOTAL. Total the amounts on the previous two lines, the average regular monthly income and the average monthly overtime.
- 7) Insert any payroll deductions on the appropriate lines. Most people will insert their monthly withholding taxes, Social Security and Medicare withholdings. If you also pay union dues insert that amount on the next line. Then insert any other withholdings. The most common other withholding is for an IRA, 401(k), HR10 or other kind of pension plan contribution. There may also be withholdings to repay loans you have taken from such an IRA or pension plan. Anything that is withheld from your gross pay before you get your take-home pay should be listed here.
- 8) SUBTOTAL OF PAYROLL DEDUCTIONS. Total all of the withholdings shown on the

previous lines.

- 9) **TOTAL NET MONTHLY TAKE HOME PAY.** Subtract the subtotal of withholdings from the subtotal of gross income. The difference should be your take home pay. This is total of the amounts of the checks you get each month, or the amount of the automatic deposits to your bank account.
- 10) If you also have a farm or business that generates income for you in addition to the wages, salaries and commissions you have already listed, insert the average monthly income from this source on the next line.
- 11) If you have income from real property, such as a rental property, insert the monthly income from this source.
- 12) If you have income from interest and dividends, insert the monthly income from this source.
- 13) If you have income from alimony, maintenance or support payments that are paid to debtor for debtor's use or that of debtor's dependents, insert the monthly income from this source.
- 14) If you receive social security or other government assistance, insert the monthly income from this source.
- 15) If you receive any other type of monthly income, insert the monthly income from this source and identify the source of the income.
- 16) **TOTAL MONTHLY INCOME.** Add to the "Total Net Monthly Take Home Pay" all the additional amounts you have listed after that, and insert that total here.
- 17) **TOTAL COMBINED MONTHLY INCOME.** Add the "Total Monthly Income" for both you and your spouse and insert that total here.
- 18) If you anticipate any increase or decrease of more than 10% in any of the categories of income identified above within the year following the filing of your bankruptcy petition, state the reason for such an increase or decrease.

Schedule J – Current Expenditures of Individual Debtor(s)

You are required to file a statement of current expenditures. Joint debtors should check the box at the top of the form only if the debtor's spouse maintains a separate household. In such a case a separate schedule of expenses labeled "Spouse" should be completed.

The various categories of expenses should be self explanatory. When you have filled in

all the applicable categories, total all the amounts and insert the total in “Total Monthly Expenses.”

If you are filing a Chapter 13 case, then insert your Total Projected Monthly Income from Schedule I into paragraph A, insert the “Total Monthly Expenses” from this Schedule J into paragraph B, subtract paragraph B from paragraph A and insert the difference in paragraph C. Insert in paragraph D how often you will make payments under your Chapter 13 plan (usually monthly) and then insert the amount of each payment. In most cases, in order for your Chapter 13 plan to be confirmed it will be necessary to make monthly payments into the plan (paragraph D) that equal your monthly disposable income that is reflected in paragraph C.

Summary of Schedules

Now go back to the beginning and put the totals from each Schedule into the appropriate boxes on the Summary of Schedules. .

III. STATEMENT OF FINANCIAL AFFAIRS

A. INTRODUCTION

Official Form #7 is called the “Statement of Financial Affairs.” This statement is a summary of your complete financial history, over certain periods of time before you filed your bankruptcy case. It is important that you pay special attention to these different time periods that will be requested in the questions. For example, if you are asked to list payments made to creditors 90 days (three months) before you file your bankruptcy case, that means you should only list those payments to creditors made during the 90-day period before your file your bankruptcy case.

You should check this form to be sure it is consistent with assets you have listed in Schedule A (real property), Schedule B (personal property), and Schedule G (executory contracts and unexpired leases).

The Statement of Financial Affairs must be completed by all debtors. Questions 1-18 should be completed by all debtors. In addition, questions 19-25 are to be completed by debtors that are or have been in business as is defined in this form. If the answer to any question is “None,” then you should mark the box labeled “None;” do not just leave it blank. If you are an individual debtor who is not or has not been in business, you do not need to answer Items 19-25 and should skip directly to the signature page after answering question 18(b). If there is not enough space provided to fully answer any question, then your should use separate sheets and attach them to this form. Each separate sheet should be clearly marked with the appropriate number of the question from the form.

B. DIRECTIONS

1. Income from Employment or Operation of Business

This question requires you to state the gross amount of income you received from your employment, trade, or profession, or from operation of your business. This information is required for the following two time periods. First, from the beginning of this calendar year to the date you file your bankruptcy petition. Second, this information is also required for the two years before the calendar year in which you file your bankruptcy case. Also the form allows you to use a fiscal year rather than a calendar year, if necessary.

The amount and source of the income should be listed for each time period. **If you have filed a joint bankruptcy petition with your spouse then you should list the income for each spouse separately, and similarly answer each question with respect to both spouses.**

Also, if you are married and have filed a Chapter 12 or Chapter 13 petition, then you must answer all of the questions on the Statement of Affairs with respect to both you and your spouse even if you have not filed a joint petition with your spouse. This requirement is not necessary if you are separated from your spouse and you did not file a joint petition.

2. All Other Income

This question requires you to list all other income that you received during the two years before you filed your bankruptcy petition. This category includes income from tax refunds, Social Security and other public benefit payments, alimony, child support, interest, dividends, pensions, annuities, capital gains, money judgments from lawsuits, royalties, licenses, rents, leases, and subleases. The amount and source of this income should be listed in the space provided.

3. Payments to Creditors

This question asks that you list payments made to both secured and unsecured creditors within two specific time periods.

a. First Time Period: You must list payments made on all loans, installment purchases of goods or services, and other debts if the total is more than \$600 paid to any creditor and made within 90 days before you file your bankruptcy case. These payments should be listed on Item 3(a).

b. Second Time Period: You must list all payments made within one year before your bankruptcy filing that were made either to a creditor or for the benefit of a creditor who is or was an “insider.” The term “insider” includes your relatives or any general partners of a debtor and their relatives. Also, this definition includes any corporation in which you are an

officer, director, or person in control. These payments should be listed under item 3(b). Each of these creditors should be listed separately. You should list the date of each payment and the amount of each payment, and any balance still owing on the debt. You must also describe your relationship to any creditors listed under item 3(b).

4. Suits and administrative proceedings, executions, garnishments and attachments

There are two parts to this question.

a. Question 4a asks that you to list all law suits and administrative proceedings in which you were a party within one year before filing your bankruptcy case. This includes divorce proceedings and state and federal administrative proceedings. You must list each law suit or administrative proceeding and case number separately. You must provide a description of the nature of the proceeding and also provide the name of the court or agency and the location of the proceeding. Further you must provide the status of any pending proceeding or the final result of any proceeding. If you are married and filed a chapter 12 or chapter 13, then you must include information concerning either or both spouses whether or not a joint petition is filed.

b. Question 4b asks you to describe all property that has been attached, garnished, or seized within one year before you filed your bankruptcy case. This includes such things as wage garnishments and tax liens. You should list separately the name and address of each person or entity for whose benefit property was attached, garnished, or seized. Also, you must list the date of such action, and provide a description and value of the property. If you are married and filed a chapter 12 or chapter 13, then you must include information concerning property of either or both spouses whether or not a joint petition is filed.

5. Repossessions, Foreclosures, and Returns

This question asks you to list all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within one year before you filed your bankruptcy petition. This includes repossession or voluntary return of any personal property, such as vehicles, tools, or household goods, as well as foreclosure and sale of any real estate.

You must include the name and address of each creditor or seller, the date of repossession, foreclosure, sale, transfer, or return, and a description and value of the property should be included.

6. Assignments and Receiverships

There are two parts to this question.

a. Question 6(a) asks the debtor to describe any assignment of property for the

benefit of creditors made within 120 days (four months) before you filed your bankruptcy case. It is very rare for any debtor in Arizona to have made any such assignment for benefit of creditors.

You must include the name and address of the assignee and the date of the assignment. Further you should also describe the terms of the assignment or settlement.

b. Question 6(b) asks you to list all property which has been in the hands of a custodian, receiver, or court-appointed official within one year before your bankruptcy filing. You must provide the name and address of the custodian or receiver. Also, you must provide, the name and location of the court, the case title, the case number, the date of the order, and a description and the value of the property should be included. This does not include a chapter 7 bankruptcy trustee.

7. Gifts and Charitable Contributions

This question requires you to list gifts or charitable contributions made within one year before you filed your bankruptcy case. These gifts or contributions include both cash and non-cash items. However, you do not need to list ordinary and usual gifts to family members that total less than \$200 in value per person and charitable contributions that total less than \$100 per recipient.

You must provide the name and address of the person or organization, and your relationship to that person or organization. Also provide the date of the gift, and a description and the value of the gift must be listed.

8. Losses

This question requires you to list all losses from fire, theft, other casualty, or gambling that occurred within one year before you filed your bankruptcy case or since you filed your bankruptcy case. You should describe the property and state its value, describe the circumstances of the loss, and explain if any loss was covered in whole or in part by insurance. The date of the loss should also be included. Any pending claims from insurance coverage should also be included on Schedule B.

9. Payments Related to Debt Counseling or Bankruptcy

This question requires you to list all payments or property transferred by you or on your behalf to any person for consultation or advice concerning consolidation of your debts, or for advice concerning bankruptcy relief, or for preparing a bankruptcy petition within one year before you file your case. This list includes both attorneys and persons who are not attorneys, such as document preparers and paralegals.

You must include the name and address of the person or entity paid and the date of the

payment. If someone made the payment for you, then you must list the name of that person. Also, you must include the amount of money paid or a description and value of the property transferred.

10. Other Transfers

Question 10 requires you to list all other property that you transferred within a year before you filed your bankruptcy case. A property transfer would include a sale or other disposition of property. It also includes property that you transfer or pledge as security for a loan. You do not have to list property you transfer in the ordinary course of your business or financial affairs.

You must list the name and address of the person or entity that received the property, and that person or entity's relationship to you should be listed. You should also list the date of the transfer, a description of the property, and the value you received for the property.

11. Closed Financial Accounts

Question 11 asks you to list all financial accounts and instruments held in your name or held for your benefit which were closed, sold, or otherwise transferred within a year prior to filing your bankruptcy case. These include checking, savings, or other financial accounts, certificates of deposit, or other instruments, shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses, and other financial institutions. Other examples include any Individual Retirement Accounts (commonly called "IRAs"), mutual funds, bonds, savings plans, and annuities.

You should list the name and address of the institution, the type and number of the account, the amount of the final balance, and the amount and the date of any sale or closing.

12. Safe Deposit Boxes

Question 12 asks you to list any safe deposit or other box or depository in which you have or had securities, cash, or other valuables within one year before you filed your bankruptcy case. You should include the name and address of the bank or depository, the names and addresses of those with access to the box or depository, a description of the contents, and the date of any transfer or surrender.

13. Setoffs

A "setoff" is when part or all of a debt you owe to a creditor is "canceled out" by a pre-existing debt owed by a creditor to you. Question 13 asks you to list all setoffs made by any creditor, including a bank, against a debt or deposit of yours within 90 days before you filed your case.

It is important that all setoffs be accounted for in this form because setoffs taken by a creditor may be recovered by your bankruptcy estate. You must include the name and address of the creditor, the date of setoff, and the amount of the setoff.

14. Property Held for Another Person

This question asks you to list all property owned by another person that you are holding or that you control. You should list the name and address of the owner, a description and the value of the property, and the location of the property. Examples of this type of property may include property you hold or control as a trustee, or as a bailee, or property held on consignment.

15. Prior Address of Debtor

Question 15 provides that if you have moved within the two years before you filed your bankruptcy case then you must list all premises which you occupied during that period.

16. Spouses and Former Spouses

Question 16 provides that if you resided or formerly resided with a spouse in a community property state at any time during the six years before filing your case, then you must disclose the name of the spouse or any former spouse who resides or resided with you in that community property state. Community property states include: Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.

17. Environmental Information

This question asks you to provide information concerning any environmentally Hazardous Material or Hazardous Site or sites which you own, manufacture, release or may formerly have owned, manufactured, or released. These would include biological as well as chemical or radioactive materials. An individual non-business debtor may own or have released Hazardous Material or property on which Hazardous Material exists. Therefore, every debtor must answer this question. Form 7 provides definitions to the terms “Environmental Law,” “Site,” and “Hazardous Material.” Also, there is no time limit on any matter. All notices, releases, and proceedings of which you have knowledge must be reported, regardless of when it happened.

There are three parts to this question:

a. The first part asks you to list every Site for which you have received a notice from a government agency that you may be liable under or in violation of an Environmental Law. You should give the name and address of the governmental unit that issued the notice, the date of the notice, and (if known) the name and section number(s) of the Environmental Law (for example, Illinois Waterways Protection Act, section 38-7.01).

b. The second part asks you to list the name and address of any Site for which you provided notice to a government agency of a release of Hazardous Material. In addition you should state the name and address of the governmental unit to which notice was sent, the date(s) of any notice(s), and, if known, the name and section number(s) of the Environmental Law under which you acted.

c. The third part requires you to list all judicial or administrative proceedings under any Environmental Law in which you are or were a party. You must disclose the name of the governmental unit that was a party in the proceeding and the docket number of the proceeding. The name of the court or other tribunal also should be stated. In reporting the status or outcome of the case, the debtor should include any settlements and any orders of any court or other tribunal. Consult an attorney if you are unsure how to answer this question.

18. Nature, Location, and Name of Business

This question has three parts. If you are an “individual debtor” then you need only fill out the first part 18a.

a. This first part requires individual debtors to list the names and addresses of all businesses in which you were an officer, director, partner (other than a limited partner) of a partnership, or managing executive of a corporation, partnership, sole proprietorship, or a self-employed professional, within the six years before you filed your voluntary bankruptcy petition.

Also, you must list the names and addresses of all businesses in which you owned five percent or more of the voting or equity securities, within the same six years before filing your bankruptcy case. Finally, you should state the name, address, taxpayer identification number, nature of the business, and the beginning and ending dates of operation in the spaces provided.

Questions 19 – 25 – for debtors who are or have been “in business”.

You only have to answer questions 19-25 if your are an individual or joint debtor who is or has been “in business.” To determine if an individual or joint debtor was “in business” for the purpose of this form, you look back six years from the date you file your bankruptcy petition and determine if you are or were any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed. You should complete items 19-25 only if you are or have been in business, as so defined, within the six years before the bankruptcy filing. Care should be used to provide information for the years specified in each question. You may attach additional sheets if necessary.

If you are an individual or joint debtor who does not meet the definition of “in business” within the preceding six years, then you should go directly to the last page of the form and the section labeled “Signatures of Debtors” (instructions below).

19. Books, Records, and Financial Statements

- a. Business debtors must list all bookkeepers and accountants who kept or supervised the keeping of books of account and records of the debtor, within the two years before the filing of the bankruptcy case. The name, address, and dates of services rendered should be placed in the space provided.
- b. Business debtors must list all firms or individuals who have audited the books of account and records or prepared a financial statement of the debtor, within the two years before the filing of the bankruptcy case. The name, address, and dates of services rendered should be placed in the space provided.
- c. You must list all firms or individuals who were in possession of the books of account and records of the debtor, at the time the bankruptcy petition is filed. The name and address of the firms or individuals should be placed in the space provided.
- d. All financial institutions, creditors, and other parties, including mercantile and trade agencies, to whom the debtor issued a financial statement, within the two years before the commencement of the case, should be listed. The name and address of the entity and the date the financial statement was issued should be placed in the space provided.

20. Inventories

- a. State the dates of the last two inventories taken of the debtor's property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory. Space is provided for the date of each inventory, the inventory supervisor, and the dollar amount. Debtors are asked to specify the cost, market or other basis for valuing the inventory.
- b. State the name and address of the person having possession of the records of each of the two inventories reported in item 20(a) above. Space is provided to list the date of the inventory and the name and address of the custodian of the inventory records.

Questions 21 – 25 for Corporations, Partnerships and LLC's

Questions 21 through 25 are only for corporations, partnerships and other kinds of non-individual debtors. They need not be answered by individual and joint debtors.

Signatures of Debtors

It is very important that all debtors sign and date the Statement of Financial Affairs. Both spouses must sign in a joint case. By signing the Statement of Financial Affairs, the debtor(s) is declaring, under penalty of perjury, that the information in the form is true and correct.

Certification and Signature of Non-Attorney Bankruptcy Petition Preparer

The Statement of Financial Affairs is a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110. Accordingly, a signature line for such preparer is provided. In addition to signing and dating the form, a bankruptcy petition preparer is required by section 110 to disclose the information requested. If more than one person prepared the document, additional signed sheets conforming to the certification on the Official Form must be attached for each person.

Signature of Individual Signing on Behalf of a Partnership or Corporation

There is also a section for the partnership or corporate debtor. Individuals and joint debtors should leave this space blank. The individual authorized by the debtor entity (partnership, corporation, etc.) to file the petition should sign the Statement of Financial Affairs on behalf of the debtor and include the individual's name, title, and the date on the lines provided. The authorized agent of a debtor corporation or debtor partnership should indicate the agent's position or relationship to the debtor. By signing the petition, the authorized individual is representing that the information in the Statement of Financial Affairs is true and correct.

Continuation Sheets

Debtors should count the number of continuation sheets and place that number in the space provided. Continuation sheets should be attached to the Statement of Financial Affairs.

IV. STATEMENT OF INTENTIONS

A. GENERAL INFORMATION

As to each property that secures a debt, you must elect what to do in regard to that property and that debt. The Statement of Intentions is the document where you make this election. It must be filed with the Court within thirty days of you filing your Bankruptcy Petition. 11 U.S.C § 521(A). You must perform your intention as set out on this list within 45 days of filing the Statement of Intentions with the Clerk. 11 U.S.C § 521(B). You do have the right to change your intention before the forty-five day period is up. To do so, you need to notify your Bankruptcy Trustee and the Creditor affected by your changed intention.

B. CHOICES

You may make one of five choices:

- (1) surrender the property to the secured creditor
- (2) reaffirm the account in writing, keep the property and continue making your payments;
- (3) retain the property and continue making your payments;
- (4) redeem the property; OR
- (5) exempt the property, if there is an applicable exemption and the secured debt is a nonconsensual judgment lien.

1. Surrender the Property. You may surrender the property to the secured creditor. If you surrender the property, you will owe no money for that property. You need to notify the creditor of that intention. You will want to make arrangements for the turnover of the property. Very likely, your secured creditor will file a Motion with the Court entitled a “Motion for Relief from the Automatic Stay,” in order for the creditor to have permission to receive the turnover of the property and re-sell the property. Example: You wish to surrender your 1997 Ford Taurus on which there is a lien. You would notify the Creditor (perhaps, Ford Motor Credit) of your intention to surrender the car, and make arrangements to turnover the car.

2. Reaffirm the account in writing. If you wish to retain the property, you may enter a written agreement to keep the property and to continue making the payments. You need notify the creditor of that intention. The Bankruptcy Judge assigned to your case must approve your decision to reaffirm the debt, unless you are represented by an attorney. By signing such an agreement, you are agreeing to pay a debt that otherwise would be discharged in your bankruptcy. You will be as liable for this debt as if you had not filed bankruptcy. The Bankruptcy Code permits you to rescind (undo, or get out of) this reaffirmation agreement by the date of discharge or within sixty days of filing the agreement, whichever date is later. The Creditor will file a Motion for the Judge to approve this reaffirmation. Example: You wish to retain the Taurus. However, you are delinquent on your payments. You contact Ford Motor Credit to reaffirm the debt on the 1997 Ford Taurus and keep the car. Ford Motor Credit sends

you an agreement that allows you to reaffirm the debt and bring your payment current. You sign and return the agreement to Ford Motor Credit. Ford Motor Credit files a Motion to approve the reaffirmation and the Court grants it. You then have sixty days from the date that the Court approves the reaffirmation or the date of your discharge to rescind the reaffirmation.

3. Retain the property. In the Bankruptcy Courts of Arizona, if you wish to retain the property, you can do so without signing a reaffirmation agreement. However, you must be current under your obligations under the purchase agreement at the time that you filed your bankruptcy (for example, monthly payments and insurance coverage), and you must keep current on these obligations. *In re David P. Parker, Sr.*, 139 F.3d 668 (9th Cir. 1998). You need notify the creditor of that intention. You keep on making your payments, keep the property insured and otherwise do not default on your obligations, and you are allowed to keep the property.

Example: You wish to retain the Taurus. You are current on your payments, the vehicle is insured and you have no other defaults under your agreement. You contact the lender of your intention to keep the car. You continue to make your payments until the debt is paid and Ford Motor Credit will then release the lien.

4. Redeem the property. You may choose to pay the cash value of the property and clear the lien of the secured creditor. To do so, you need to have the money to pay the amount that you believe the property to be worth. You would file a Motion for Order Authorizing Redemption of Personal Property. Local Rule 6008-1. The Bankruptcy Courts of Arizona provide sample forms of this Motion and related documents, Local Sample Form 6608-1.

Example: You owe \$10,000 for your 1997 Ford Taurus. You wish to keep it, but you believe it be worth only \$6,000. You would go to the Court or the Court's website and get copies of Local Form 6008-1, Local Form 6008-2 and Local Form-3. You fill out Local Form 6008-1. You mail to Ford Motor Credit and your Trustee. Ford Motor Credit files an objection with an appraisal that the vehicle is worth \$9,000. You submit Local Sample Form 6008-2 to the Clerk of the Court. The Judge assigned to your case sets a hearing. You once again send a copy of the completed Form 6008-2 to Ford Motor Credit and your Trustee. You attend the hearing and submit your evidence of the value of the vehicle, such as an appraisal or blue book amount. Ford Motor Credit does the same. The Judge determines the value of the vehicle as \$7,000. To redeem the car you must pay Ford Motor Credit \$7,000, and Ford Motor Credit should then submit a lien release to you and you own the Taurus, free and clear of any lien. If you do not have \$7,000 cash available, you may be able to find a lender or other finance company that will finance your redemption, in which case you will owe monthly payments to that lender.

5. Exempt the property. If you have property that is secured by certain types of liens and that property would otherwise be free of your creditors' and the bankruptcy trustee's claims because it is exempt, then you can elect to exempt that property. Examples of these liens are judicial liens (11 U.S.C. § 522(f)(1)(A)) and Nonpossessory, Nonpurchase-Money Security Interests (11 U.S.C. § 522(f)(1)(B))

Judicial liens. If a Creditor obtained a judgment against you, and recorded the judgment, it operates as a lien on any real property you own. Under most circumstances this judgment lien can be removed from your homesteaded residence if the equity in your residence is less than Arizona's limit for the homestead exemption, currently \$150,000. This right to exempt property does not apply to liens filed for taxes, and does not apply to any lien, mortgage, deed of trust or other security interest that you voluntarily granted to the creditor.

Nonpossessory, Nonpurchase-Money Security Interests In Certain Personal Property. If, in exchange for a new loan, you have given a creditor a lien against your already-owned personal property, and that property is exempt, in many circumstances that lien can be removed. This type of lien removal does not apply if you received a loan to purchase the property and you voluntarily gave a lien as part of that loan and purchase. In either of these events, you may file for a lien avoidance action under Local Rule 4003-2. Local Forms are provided for the filing of those actions.

C. FILLING OUT THE FORM.

a. Property to Be Surrendered.

For those items of property that you wish to surrender and have no further liability for the debt, you list under category a. For each list a description of the property (for example, 1997 Ford Taurus) and the name of the Creditor (for example, Ford Motor Credit).

b. Property to Be Retained.

For those items of property that you wish to retain, describe the property, insert the secured creditor's name, and check the appropriate box if you intend to avoid the lien as impairing an exemption pursuant to § 522(f), redeem the property or reaffirm the debt. If you intend to do none of these but simply keep all payments and other obligations current, then do not check any of these three boxes.

Order of Documents – Chapter 7

- An original and two copies are required at the time of filing. The court requires only an original and one copy, but you should bring a separate copy to have stamped and returned to you, in case you need to show anyone that you have filed the case. Papers must be assembled into complete sets. The first set must be the signed original.
- Even if certain of the schedules or statements of Official Forms 6 (Schedules A through J) and 7 (Statement of Financial Affairs) are not applicable to a debtor's particular situation, they shall be filed with either the notation "None" marked thereon or the applicable box checked that there is nothing to report for the particular schedule or statement.
- Pursuant to Local Bankruptcy Rule 9004-1, papers presented to the Court for filing should be on white 8½ x 11" paper, single-sided, two-hole punched at the top. Except as otherwise required by an official form, every paper should have the name, address, phone number and email address of the filer in the upper left hand corner of the first page, and shall be typed double-spaced.
 1. Voluntary Petition
 2. Exhibit "C" to Voluntary Petition (if Exhibit "C" "yes" box is checked on page two of the Voluntary Petition)
 3. Summary of Schedules
 4. Schedules A through J
 5. Declaration Concerning Debtor's Schedules (included with schedules)
 6. Statement of Financial Affairs
 7. Chapter 7 Individual Debtor's Statement of Intention [must be filed within 30 days from filing Petition (not required for corporations)
 8. Disclosure of Compensation of Attorney for Debtor (for petitions of persons who are represented by legal counsel or where an attorney has prepared the paperwork)
 9. Statement Regarding Assistance of Non-Attorney with Respect to the Filing of Bankruptcy Case (for persons not represented by counsel)
 10. Disclosure of Compensation of Bankruptcy Petition Preparer (for persons non represented by counsel and where a bankruptcy petition preparer prepared the paperwork)
 11. Master Mailing List
 12. Statement of debtor's Social Security Number.

Corporations, partnerships, LLCs and unincorporated associations filing bankruptcy cases **MUST** be represented by an attorney.